

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOSEPH McDANIELS,

11 Plaintiff,

12 v.

13 TOM SUSS, et al,

Defendants.

Case No. C07-5221RBL

ORDER DENYING MOTION TO
APPOINT COUNSEL

14 THIS MATTER comes before the court on the Plaintiff's Application for Court-Appointed
15 Counsel, [Dkt. #33].

16 Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person unable to
17 afford counsel. Under §1915, the court may appoint counsel in exceptional circumstances. *Franklin v.*
18 *Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court must evaluate
19 the likelihood of success on the merits and the ability of the petitioner to articulate the claims pro se in light
20 of the complexity of the legal issues involved. *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).
21 Although plaintiff has survived a motion for summary judgment as to one claim, he has not shown a
22 likelihood of success on the merits, and has not alleged facts or claims supporting a finding of exceptional
23 circumstances. His request for the appointment of counsel [Dkt. #33] is therefore **DENIED**.

24 DATED this 15th day of April, 2008.

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27 RONALD B. LEIGHTON
28 UNITED STATES DISTRICT JUDGE